

FORM PTO-1390 MODIFIED	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE	ATTORNEY'S DOCKET NUMBER <b>4223-9</b>
<b>TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A FILING UNDER 35 U.S.C. 371</b>		U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5)  <b>10/590,527</b>
INTERNATIONAL APPLICATION NO. <b>PCT/GB2005/000708</b>	INTERNATIONAL FILING DATE <b>25 February 2005</b>	PRIORITY DATE CLAIMED <b>26 February 2004 et al</b>
TITLE OF INVENTION <b>IMPROVEMENTS IN OR RELATING TO A METHOD AND APPARATUS FOR GENERATING A MIST</b>		
APPLICANT(S) FOR DO/EO/US <p style="text-align: center;"><b>FENTON et al</b></p>		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
1. <input type="checkbox"/> This is a <b>FIRST</b> submission of items concerning a submission under 35 U.S.C. 371.		
2. <input checked="" type="checkbox"/> This is a <b>SECOND</b> or <b>SUBSEQUENT</b> submission of items concerning a submission under 35 U.S.C. 371.		
3. <input type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f). The submission must include items (5), (6), (9) and (21) indicated below.		
4. <input type="checkbox"/> The U.S. has been elected (Article 31).		
5. A copy of the International Application as filed (35 U.S.C. 371(c)(2).		
a. <input type="checkbox"/> <b>WO 2005/082545 is attached hereto (</b> <b>pages specification, claims &amp; abstract (</b> <b>claims),</b> <b>sheets drawings).</b>		
b. <input type="checkbox"/> has been communicated by the International Bureau.		
c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US).		
6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(3)		
a. <input type="checkbox"/> is attached hereto (      pages specification, claims & abstract (      claims),      sheets drawings,      page Certificate of Translation).		
b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4).		
7. <input type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)		
a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau).		
b. <input type="checkbox"/> have been communicated by the International Bureau.		
c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has <b>NOT</b> expired.		
d. <input type="checkbox"/> have not been made and will not be made.		
8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3).		
9. a. <input type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4).		
b. <input type="checkbox"/> Declaration was submitted to the International Bureau during International Phase (see copies of Declaration (      page Form PCT/RO/101 and Form PCT/IB/371 and first page of printed publication acknowledging receipt thereof attached).		
10. <input type="checkbox"/> An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5).		
<b>Items 11 To 20 below concern document(s) or information included:</b>		
11. <input type="checkbox"/> An Information Disclosure Statement under 37 C.F.R. 1.97 and 1.98.		
12. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 C.F.R. 3.28 and 3.31 is included.		
13. a. <input type="checkbox"/> A FIRST preliminary amendment.		
b. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment.		
14. <input type="checkbox"/> An Application Data Sheet under 37 C.F.R. § 1.76.		
15. <input type="checkbox"/> A substitute specification.		
16. <input type="checkbox"/> A change of power of attorney and/or address letter.		
17. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821-1.825.		
18. <input type="checkbox"/> A second copy of the published international application under 35 U.S.C. 154(d)(4).		
19. <input type="checkbox"/> A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).		
20. <input checked="" type="checkbox"/> Other items or information. <b>REQUEST UNDER RULE 28(C) TO ACCEPT PAYMENT AS LARGE ENTITY OF A PREVIOUS FEE PAID IN GOOD FAITH BUT ERRONEOUSLY AS SMALL ENTITY</b>		

U.S. APPLICATION NO. (If known, see 37 C.F.R. 1.5) <b>10/590,527</b>		INTERNATIONAL APPLICATION NO. <b>PCT/GB2005/000708</b>		ATTORNEY'S DOCKET NUMBER <b>4223-9</b>	
<input checked="" type="checkbox"/> The following fees are submitted:					
<b>BASIC NATIONAL FEE (37 C.F.R. 1.492(a)(1)-(5):</b>					<b>DEFICIENCY OWED</b>
21. <input checked="" type="checkbox"/>	Basic national fee .....			\$300.00 (1631)/\$150.00 (2631)	\$ 150.00
22. <input checked="" type="checkbox"/>	Examination Fee .....			\$0 (1643/2643)	\$ 100.00
.....\$200.00 (1633)/\$100.00 (2633)					
23. <input checked="" type="checkbox"/>	Search Fee .....			\$0 (1640/2640)	
.....\$100 (1641)/\$50 (2641)					
.....\$400 (1642)/\$200 (2642)					
.....\$500.00 (1632)/\$250.00 (2632)					\$ 200.00
<b>TOTAL OF ABOVE CALCULATIONS</b>					\$ 450.00
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof (round up to a whole number)	RATE
103	-100	3	/50 =	0.06	\$250.00 (1681)
					\$125.00 (2681)
Surcharge of \$130.00 (1617)/\$65.00 (2617) for furnishing the oath or declaration later than <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 C.F.R. 1.492(e)).					\$ 65.00
CLAIMS		NUMBER FILED		# EXTRA	RATE
Total Claims		59	minus 20	39 X	\$50.00 (1615)/
			=		\$25.00 (2615)
Independent Claims		2	minus 3 =	0 X	\$200.00 (1614)
					\$100.00 (2614)
MULTIPLE DEPENDENT CLAIMS(S) (if applicable)					\$360.00 (1616)/\$180.00 (2616)
Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s): One Month Extension \$120.00 (1251)/\$60.00 (2251); Two Month Extensions \$450.00 (1252)/\$225.00 (2252); Three Month Extensions \$1020.00 (1253)/\$510.00 (2253); Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)					\$ 0.00
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.					
Processing fee of \$130.00 (1618), for furnishing the English Translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 C.F.R. 1.492(f)).					0.00
<b>TOTAL NATIONAL FEE =</b>					\$ 1615.00
Fee for recording the enclosed assignment (37 C.F.R. 1.21(h). The assignment must be accompanied by an appropriate cover sheet (37 C.F.R. 3.28, 3.31). \$40.00 (8021) per property					+
Fee for Petition to Revive Unintentionally Abandoned Application; \$1500.00 (1453) / \$750.00 (2453)					\$ 0.00
<b>TOTAL FEES ENCLOSED =</b>					\$ 1615.00
					Amount to be refunded:
					\$
					Amount to be Charged:
					\$

Adjustment date: 05/16/2007 MKAYPAGH

08/30/2006 MKAYPAGH 00000076 10590527

01 FC:2631	-150.00 OP
02 FC:2642	-200.00 OP
03 FC:2633	-100.00 OP
04 FC:2617	-65.00 OP
05 FC:2615	-975.00 OP
06 FC:2681	-125.00 OP

05/16/2007 MKAYPAGH 00000133 10590527

01 FC:1631	300.00 OP
02 FC:1642	400.00 OP
03 FC:1633	200.00 OP
04 FC:1617	130.00 OP
05 FC:1681	250.00 OP
06 FC:1615	1950.00 OP

a. ☐ A check in the amount of \$1615.00 to cover the above fees is enclosed.

b. ☐ Please charge my Deposit Account No. 14-1140 in the amount of \$\_\_\_\_\_ to cover the above fees.

A duplicate copy of this form is enclosed.

c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 14-1140. A duplicate copy of this form is enclosed.

d. ☒ **CREDIT CARD PAYMENT FORM ATTACHED.**

e. ☐ The entire content of International Application No. **PCT/GB2005/000708** and any U.S. and foreign application(s) corresponding thereto, and \_\_\_\_\_, referred to in this application is/are hereby incorporated by reference in this application.

**NOTE: Where an appropriate time limit under 37 C.F.R. 1.494 or 1.495 has not been met, a petition to revive (37 C.F.R. 1.137(a) or (b) must be filed and granted to restore the application to pending status.**

**CORRESPONDENCE ADDRESS**

**Direct all correspondence to:**

☒ **Customer Number:**

**23117**

*Type Customer Number here*

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BHD:bcb

  
**Bryan H. Davidson**

NAME

**30,251**

REGISTRATION NUMBER

**May 15, 2007**

Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

**FENTON et al**

Atty. Ref.: **4223-9**

Serial No. **10/590,527**

Group: **(Unknown)**

Filed: **October 19, 2006**

Examiner: **(Unknown)**

For: **IMPROVEMENTS IN OR RELATING TO A METHOD AND APPARATUS FOR  
GENERATING A MIST**

\* \* \* \* \*

May 15, 2007

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST UNDER RULE 28(C) TO ACCEPT PAYMENT AS LARGE ENTITY OF A  
PREVIOUS FEE PAID IN GOOD FAITH BUT ERRONEOUSLY AS SMALL ENTITY**

Sir:

The applicant hereby requests under 37 CFR §1.28(c) that the Office accept payment as large entity of a previous fee paid in good faith but erroneously as small entity. Specifically, it has now been determined that a loss of small entity status for this application occurred in November 2005.

The failure to notify the Office of such potential loss of small entity status and the erroneous payment of fees subsequent thereto occurred without deceptive intent on the part of the applicant.

Following is a chart identifying and itemizing each fee previously erroneously paid as a small entity:

**FENTON et al**  
**Serial No. 10/590,527**  
May 15, 2007

<u>Type of Fee</u>	<u>Date Small Entity Fee Paid</u>	<u>Current Large Entity Fee Amt.</u>	<u>Small Entity Fee Amt. Paid</u>	<u>Deficiency</u>
National Filing Fee	Aug. 24, 2006	\$ 300.00	\$ 150.00	\$ 150.00
Examination Fee	Aug. 24, 2006	\$ 200.00	\$ 100.00	\$ 100.00
Search Fee	Aug. 24, 2006	\$ 400.00	\$ 200.00	\$ 200.00
Additional Page Fee	Aug. 24, 2006	\$ 250.00	\$ 125.00	\$ 125.00
Rule 492(2) Surcharge	Aug. 24, 2006	\$ 130.00	\$ 65.00	\$ 65.00
Excess Claims Fee	Aug. 24, 2006	\$ 1,950.00	\$ 975.00	\$ 975.00

Total  
Deficiency: \$ 1,615.00

A credit card authorization covering the total fee deficiency in the chart above is attached.

In order to expedite consideration of this request, however, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith to our Account No. 14-1140.

An early and favorable reply to this Request is solicited.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: 

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